

LAW OFFICES OF JOSEPH M. LICHTENSTEIN, P.C. **MEMO ENDORSED**

ATTORNEYS
JOSEPH LICHTENSTEIN °
THEODORE MCKINLEY THORNTON °°

° Also admitted in Pennsylvania
°° Also admitted in Massachusetts

MEMO EN **PARALEGAL STAFF**
AMBER BOND
ANNMARIE BROWN-JIMENEZ

June 7, 2022

VIA ECF

United States District Court, Southern District of New York
Hon. Kenneth M. Karas
3000 Quarropas Street
White Plains, New York 10601

Re: *Caceres/Chavez v. USA*
Case No. 7:21-cv-08582-KMK-PED

Dear Judge Karas,

My office represents the Plaintiff in the above-cited action for medical malpractice and wrongful death arising pursuant to the Federal Tort Claims Act. I write to Your Honor to respectfully request a 45-day extension of time for fact and expert discovery in the above-cited matter, and of the deadlines for pre-motion letters and responses. At the conference in this matter held before Magistrate Judge Davison on May 11, 2022, Magistrate Judge Davison advised that any application for an extension of time for discovery should be directed to Your Honor.

Pursuant to the Case Management and Scheduling Order dated January 19, 2022, currently, all fact discovery is to be completed by June 19, 2022, expert discovery as to Plaintiff's experts is to be completed by July 19, 2022, expert discovery as to Defendant's experts is to be completed by August 19, 2022, pre-motion letters are to be filed by September 6, 2022, and responses thereto are to be filed by September 13, 2022.

The parties to this action have been cooperative with regard to discovery, and have worked diligently and in good faith to complete discovery in a timely manner. Initial interrogatories and requests for production were served and were fully responded to, both in a timely manner. Further, at this time, depositions of the Plaintiff's Decedent's son and widow, as Plaintiff's witnesses, have been held, and the deposition of non-party Mikhail Itingen, D.O., has been started, but not finished. Dr. Itingen was subpoenaed for deposition in this matter, and his deposition was ordered by Magistrate Judge Davison. It is uncertain whether or not the deposition of Dr. Itingen will be completed by the current June 19, 2022, deadline for fact discovery, due to issues of the availability of his counsel within that time frame (his counsel has stated he has a trial beginning imminently). The deposition of Susan Chae, DPM, as Defendant's witness, is scheduled for June 10, 2022. Additionally, Plaintiff has just sent out for service a deposition subpoena to non-party Steve Sharon, M.D. Given the close proximity of the current June 19, 2022, deadline for fact discovery, it is virtually certain that Dr. Sharon's deposition will not be complete by then. Based on the foregoing circumstances, it is respectfully submitted that an extension of time for discovery,

LAW OFFICES OF JOSEPH M. LICHTENSTEIN, P.C.

RE: CACERES/CHAVEZ V. USA
CASE NO. 7:21-CV-08582-KMK-PED

and of the time to file pre-motion letters and responses thereto, is warranted. If the Court were to grant the requested 45-day extension of time, the new deadlines would be as follows:

Depositions of Fact Witnesses and All Fact Discovery: August 3, 2022

Expert Discovery as to Plaintiff's Experts: September 2, 2022

Expert Discovery as to Defendant's Experts: October 3, 2022

Pre-Motion Letters: October 21, 2022

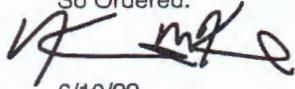
Responses to Pre-Motion Letters: October 28, 2022

No prior request for an extension of the aforesaid deadlines has been made, nor has any prior extension of the aforesaid deadlines been granted by the Court. I have conferred with counsel for the Defendant regarding this request, and she has indicated that she consents to this request.

I thank the Court for its consideration of this request and its attention to this matter.

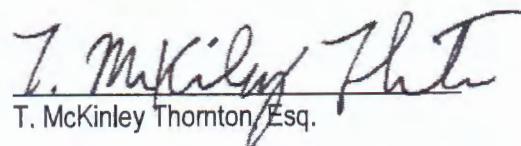
Granted. The next case management conference will be on
11/ 11/22, at 12:00. No more extensions will be granted.

So Ordered.



6/10/22

Respectfully submitted,



T. McKinley Thornton, Esq.

cc (via ECF):

United States Attorney for the Southern District of New York
86 Chambers Street, 3rd Floor
New York, New York 10007

Garson & Jakub, LLP
29 Broadway, Suite 1300
New York, New York 10006